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Thank you for your reply dated 24 August to our complaints concerning the policies of the Spanish government concerning the matter of democratic remembrance. However we must say that we are deeply disappointed at its contents. We do not believe that your arguments are compatible with the spirit, the letter, the goals and the actions of the European programmes on this matter. Nor do we believe that they are consistent with the political principles that you used in the plenary session of the European Parliament on 11 November 2015 to defend the framework approved by the European Commission for preventing systemic threats to the rule of law in its territory. Nor indeed do we agree with the legal arguments called into play to justify not taking the matter any further.

In the second paragraph of your letter you refer to the report by the European Commission on the remembrance of the crimes committed by totalitarian regimes in Europe, and to the complex, delicate process followed by Member States in tackling the horrors and crimes of the past. You state that the Commission can facilitate that process by encouraging debate and the sharing of experiences, and by promoting best practices.

We are convinced that the Commission agrees with our group of Euro MPs that supporting the refusal to facilitate judicial investigation of crimes against humanity committed by a dictatorship cannot be shared as a best practice. Nor does it seem recommendable that this should form part of any sharing of experiences under the framework of the Europe for Citizens programme, as it is far removed from promoting any constructive debate and still further from European values.

The support provided by the Commission through this program for the activities of certain Spanish associations is praiseworthy, but is of very little use if it must exist side-by-side with events such as that which we are complaining about, and with the inaction of the authorities in the face of tributes to leading members of the Franco regime and public-sector subsidies for organisations devoted to glorifying the dictator, and in the face of the opposition encountered by victims at some public institutions while attempting to recover the bodies of family members who suffered reprisals. In our opinion this constitutes a systemic threat to the fundamental values of the rule of law. The resulting picture has been criticised by all manner of civic organisations and international institutions.

The failure of the European Commission, a Nobel Peace Prize winner, to take on board the need to change a policy that is clearly inhuman and contrary to the values of the Union is hard to understand and accept. That is how it will be seen by the thousands of victims who still survive and who are calling for truth, justice and reparation but have been left defenceless by the government of their country; victims who expected to find a more sensitive attitude on the part of the office of the Vice President of the European Commission responsible for promoting fundamental rights and the rule of law.

Those expectations were consistent with your own undertakings and wishes expressed at the aforesaid appearance on 11 February 2015. At that time you indicated that you were in favour of using the framework set up at the Commission to combat potential breaches of fundamental rights on EU territory, you praised the prudence and moderation that this permitted in actions against Member States and you supported the idea of using it to its fullest extent to prevent Community supervision from being stopped given the nature of the regulations breached. Similar concerns were shown in the successive reports on the state of human rights in the EU approved by the European Parliament.

We could not agree more. We believe that this framework is more practical, faster and more realistic than the one envisaged in Article 7 of the TFEU: it is more flexible and more capable of fostering “circular, integral” monitoring by the Community of the quality of the rule of law in all Member States. Progressing from words to deeds would be an excellent move.

Nor do we agree with the legal criteria that you mention in your letter, as we believe that they do not bear comparison with the material contents of the framework decisions to which we refer, or indeed with the letter of Article 7 of the TFEU, since it is plain that in this case a government of the Union is blatantly and radically failing to comply with Community regulations. We can think of no more powerful way of denying or trivialising the crimes against humanity committed by totalitarian regimes in Europe than preventing their investigation by the courts, protecting those presumably responsible and denigrating and ill-treating the victims in word and deed. We can think of no conduct more likely to lead to a loss of legitimacy in the application of these specific Community regulations than the prevention by the government of Member State, no less, of the clarification of some of the cruellest, most recent crimes committed by the regime of General Franco.

Arguing that the actions of the Community should be limited to merely confirming that such conduct is classed as an offence in the Spanish penal code, with no minimal analysis of how far the relevant legislation is met by the government of the country itself, does not seem consistent with the role of guardian of the treaties and of Community regulations that falls to the European Commission.



For all these reasons we ask you to reconsider your position and at least begin an exhaustive, objective assessment of the situation. Two major international institutions – the Council of Europe and the United Nations – stress that there is a need to do so. We believe in the power of empathy.

On the next el 26th April we will commemorate the 80th anniversary of the Gernika bombings. 20 years ago, on the 60<sup>th</sup> anniversary, the German government apologised formally to Gernika's population for these acts. Long before that, Germany had promoted an active policy of recognising and repairing the crimes committed during the Second World War. The situation could not be more different in Spain: victims associations are systematically ignored, if not attacked, by the Spanish government.

On the 26th, we are inviting representatives of several associations of victims to the European Parliament, precisely to bring these issues to the European discussion.

A significant initial step would be to listen to the thoughts and feelings of the victims of crimes by the Franco regime and learn how they are treated by the Spanish authorities and how those authorities prevent the investigation and clarification of those crimes. We would be extremely grateful if you could at some point during that day, meet them for a brief exchange of views. We remain at your disposal to organise this meeting.

Yours sincerely,

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MEP Marina Albiol (GUE/NGL)

MEP Izaskun Bilbao (ALDE)

MEP Josu Juaristi (GUE/NGL)

MEP Jordi Sebastiá (Greens/EFA)

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